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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 10 of the provisional agenda

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement* submitted by the World Alliance of Reformed Churches, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 December 2001]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. * 2 0 0 2 0 1 0 1 5 8 *

ENG

Representatives from Orthodox, Protestant and Roman Catholic churches from Central and Eastern Europe, along with resource persons involving a number of professional economists, met in June 2001 in Budapest, at the invitation of the World Council of Churches (WCC), the World Alliance of Reformed Churches (WARC), the Conference of European Churches (CEC). The consultation aimed at evaluating 10 years of economy in transition and its social consequences from Christian perspective. This intervention is based on its outcome.

To be more vigilant

About a decade ago, we, the people in Central and Eastern Europe rejoiced as we realized we were free. It was as if a deep shadow had passed by and full daylight had returned.

As we review the past ten years, it becomes clear that the magnitude and content of the problems encountered have been grossly underestimated by both governments and churches. Also, as we listen to reports from those whose suffering is most severe, we conclude that not all their difficulties arise directly out of what happened more than ten years ago.

The countries in the region enjoy great cultural and religious diversity. We heard that some of them show economic growth, increasing employment and environmental improvements according to the data available. In the region as a whole, however, rising unemployment and the falling value of pensions and wages has plunged millions of women and men into poverty. UNDP statistics report that1
- In 1989 about 14 million people in the former communist block lived on less than four dollars a day. By the mid–nineties that number had risen to 147 million people.
- At the same time, and in sharp contrast, there has developed a new feature, that of excessive wealth for a small minority.
- Life expectancy fell significantly in some of the countries.
- Health care, schooling and education standards declined.
- Commerce based criminality grew rapidly.

These observations reveal shortcomings in the implementation of the International Covenant on Economic, Social and Cultural Rights (CESCR), and in particular Articles 11.1, 12.1 and 13.2. In this general context, WARC welcomes the statement on poverty and the international covenant on economic, social and cultural rights which the Committee On Economic, Social And Cultural Rights adopted on 4 may 2001 during its 25th session. It underlines that the aspirations expressed in this submission are indeed well founded in the ideals of Human Rights.

It is worth noting that the Covenant is silent on income distribution. Is there a point at which the gap between rich and poor is so wide that it offends the general idea of Human Rights?

Search for explanations

In relation to these facts, we felt a moral duty to search more diligently for additional explanations for the prevailing mood of disappointment and the sense of betrayal. We identified two main reasons behind the present difficulties in the region.

First was the actual way in which the challenge of the transformation of society was handled by most authorities after 1989. Whereas Communism had depended on unrestricted State planning, politicians and leaders now embraced the unrestrained market-mechanism as the path to a better future. They did not discern that a market without social, cultural, and institutional frameworks would undermine the very fabric of society. Privatisation, liberalisation and deregulation of the market for the sake of economic growth was made a

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1 United Nations Development Programme, Human Development Report for Central and Eastern Europe and CIS, New York 1999, www.undp.org/rbec/publications

prerequisite for receiving external loans and financial assistance . This neo-liberal 'shock therapy', requiring a shrinking role for the State, simply disabled existing social provisions for ordinary women and men.

Second was the dynamic released by 'globalisation'. It is a complex term. Where it refers to growing possibilities for genuine co-operation between nations and peoples with opportunities for communication and common action, it has a positive connotation. Our consultation, for instance, benefited greatly from the participation of Christians from many continents.

It has negative connotations where it refers to the dominance exercised by an ideology legitimizing and promoting the unrestrained activities of players in the global markets, and the unprecedented concentration of financial power in the hands of self-appointed 'rulers'. The unregulated flow of capital becomes the arbiter of the economic goodness or badness of all human or political actions. It is driven by powerful economic self interest. It commercializes human and institutional relationships and the very sources of life; the earth, water, air and even the human body itself. The ideology, power structures and practices entailed by this project accounts for dramatic changes in the economies and societies of Central and Eastern Europe. Its immediate effects are to put pressure on governments at all levels to cut social, medical, educational and environmental expenditure in order to be 'attractive' in the eyes of 'global' capital. Women and other vulnerable groups bear the greatest burden of its consequences.

Globalisation dramatically transforms the nature of power. Democratically elected governments and their delegates in international organisations are increasingly losing power to the growing influence of international bureaucracies, transnational corporations, media-owners and actors in the field of financial 'global' capital. We challenge these power structures, urging them to become more transparent, accountable and representative. Democracy should be reinstated in the new forms of decision-making, at local, national and international levels.

This ideological emphasis on privatisation at any price, has undermined existing infrastructures. Minimising the role of the state, it left the poor without adequate protection and support and opened the door to criminal and speculative activities. Irresponsible owners who had no interest in the fate of either companies or employees bought out many of the newly privatised enterprises and banks. Alternative paths to ownership were hardly considered, nor the idea that ownership brings social obligations.

The policy framework set by privatisation, liberalisation, deregulation and globalisation was not invented by the peoples of Eastern and Central Europe. Nor did it arrive borne on the wind It was adopted under strong pressure from international institutions, governments and powerful economic interests elsewhere. This raises the main question concerning the CESCR in this statement: is this behaviour compatible with Article 5.12?

Global finance should not be allowed to monopolise the decisive role in national and regional economies by rendering them over-dependent on Foreign Direct Investment and speculative capital. We strongly recommend that governments persist in striving for the development of their home economy, with special attention to the role of medium and small businesses, and warn them against prioritising export-orientation at their expense.

Governments should safeguard cultural values, the dignity and rights of all women and men, and their unhindered development. Economic globalisation in its present form threatens values such as justice, charity, peace and sobriety which are rooted in Christian traditions. It replaces them with the values of unrestrained consumerism and increasing commercialisation (or monetisation) of society. Education, health care, arts, sports, the media, the environment and

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2 Article 5.1 reads in particular "Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein..."

even safety are increasingly dominated by financial considerations. The culture of economic rivalry is usurping the culture of social co-operation with adverse consequences for weak and vulnerable people.

Justice to the poor

This confusion about 'globalization' is often used as an alibi, not only by important international agencies, such as the IMF, the WTO and the World Bank, but also a growing number of national governments. They demand harsh sacrifices of ordinary women and men as indicated already. They do this despite reliable evidence that economic growth fails to promote human development unless there is

- adequate support for the poor, unemployed, and other vulnerable groups;
- environmental protection;
- transparency and accountability in government, and
- effective participation by civil society (including labor unions).

Policies justified in this way are contrary to both scientific findings and the core of Christian faith. They have to stop unconditionally and immediately. For, as it is stated so well in the recent Basic Social Concept of the Russian Orthodox Church:

> "...the danger of differences that may emerge between people's will and international organization's decisions should not be underestimated. These organizations may become instruments for the unfair dominion of strong over weak countries, rich over poor, the technologically and informationally developed over the rest. They may also practice double standards, by applying international law in the interest of more influential states."3.

Given this situation, our meeting arrived at the unequivocal conclusion:

No authority inside or outside the region should ever escape its responsibility to do justice to the poor and the needy by claiming the unavoidability of the requirements of globalization.

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3 cf. *The Foundations of the Social Concept of the ROC*, www.russian-orthodox-church.org.ru/sd00e.htm

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 17 (c) of the provisional agenda

PROMOTION AND PROTECTION OF HUMAN RIGHTS: INFORMATION AND EDUCATION

Written statement* submitted by the Romanian Independent Society of Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201026 4*
ENG

1. The Romanian Independent Society of Human Rights (SIRDO) is a non-governmental organisation set up in 1990 with the purpose to protect and promote human rights and fundamental freedoms, according with the principles of the UN Charter and the universal and regional conventions and treaties Romania is part to. Within its programmes focused on legal counselling, assistance and support for the victims of human rights violations in relationship with state authorities, SIRDO also has activities of human rights education and information.

2. The dissemination of human rights information covered by SIRDO also includes certain categories of persons (victims of torture, victims of domestic violence, prisoners, refugees, religious minorities, teachers, pupils, students, lawyers, etc.) who either ask for assistance in the field, or belong to groups of collaborators in various programs. Beside individual counselling, SIRDO prepared in time, by seminars and courses, a number of approximately 245 teachers on general human rights notions, 20 students in the refugee field, 1,500 prisoners on the rights of the person deprived of freedom and 10 lawyers to plead in the field of human rights.

3. The attention of our organization focuses on the means to implement in Romania the UN Resolutions (GA 55/94 and CHR 2001/61) entitled "United Nations Decade for Human Rights Education (1995-2004)". Subsequent to the analysis made on the Romanian national mechanism for the promotion of education and public information on human rights, we may say the following

   - The Romanian national system of education does not include, at any level, (primary, secondary, university) human rights as a studying course. It only appears in the civic education manual of secondary level and only in one chapter, while in the state university level in only one semester course and in the private one on a more diversified area;
   - The court instances obstruct the use of human rights in the act of justice, as they are stipulated in international documents;
   - The dissemination of UN documents and information on human rights is made only by translating them into Romanian and distributing them in various government sectors, where they come to lack importance;
   - The dissemination of human rights information for the population is reduced to one weekly TV show, with no written publication in this field;
   - The political discourse makes reference only to citizen's rights, which attracts the violation of the universal principle of human rights by invoking traditional elements and drawing attention of the public opinion from the real human rights values.

4. Considering the above mentioned, SIRDO asks the Human Rights Commission to focus its attention on the Romanian reports on the implementation of the Decade Action Plan and encourage the real reforms that the government must make to develop policies on education and dissemination of public information on human rights. A special demand would be to include as evaluation points in the medium term Reports the problems presented by SIRDO in paragraph 3 and which represent, in our opinion, the basis for the evaluation of the way in which Romania fulfils its duties.

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COMMISSION ON HUMAN RIGHTS
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Item 13 of the provisional agenda

RIGHTS OF THE CHILD

Written statement* submitted by the Romanian Independent Society of Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. * 0 0 2 0 1 0 2 6 7 *

ENG

1. SIRDO is a non-governmental organization created in 1990 with the purpose of protecting and promoting human rights and fundamental freedoms in accordance with the principles of the UN Charter and the universal and regional conventions and treaties Romania is part to. SIRDO's programs mainly focus on the legal assistance, counselling and support of the victims of human rights violations in relationship with state authorities. A special attention is drawn upon the way in which the Romanian state deals with implementing the international human rights instruments.

2. SIRDO's intervention capacity on national scale is diminished by the government's formal attitude in relationship with non-governmental organizations considered by the executive to lack expertise and the collective initiative of the civil society and to have the media involvement only in noticing the effects of phenomena affecting human dignity. Therefore, SIRDO asks for the attention and intervention of the Commission on Human Rights in order to determine Romania to fully implement the UN Convention for Children's Rights ratified in 1990.

3. Thus, we wish to present the lack of protection of the new born and minor children who can be abandoned even from birth by their parents in the maternities or subsequent to treatment in paediatric hospitals, without any legal consequences for their parents. We think that the Romanian state is guilty of violating the provisions of the UN Convention on Children's Rights by ignoring its principle, namely "the superior interest of the child" as well as the report to the particular situation which includes the guarantee of the child's right to "a name and identity".

4. There are situations related to human rights violations, which SIRDO has in view and which can be included in the category of violating the right to adequate protection of the state. In the case of abandonship of the new born or minor child, of parents' negligence towards their children, the Romanian State does not apply its national legal and institutional mechanisms, considering that the State itself is not a persecution agent. Thus, it leaves place for an extremely dangerous phenomenon, which most times, becomes the main cause of nameless children, with temporary or formal identity, and of the possibility that they may be subjected to exploitation, be trafficked, displaced without return in other countries by forms more or less related to adoption.

5. The tolerance with which the maternities and paediatric hospitals bear the costs for supporting the abandoned child, with no intervention of the state institutions in order to identify and sanction the parents guilty of abandonship, makes us think that this phenomenon, transferred from communism times, is intentionally ignored. Thus, invoking compassion for the life level under the limit of surviving possibilities of the persons abandoning their children in maternities and paediatric hospitals, the institutions responsible and the media are also guilty for ignoring the measures necessary to eradicate poverty on national scale.

6. The national legal void allows for the tolerance of abandonship of children, while the institutional mechanisms for social assistance do not intervene to ensure the abandoned new born or minor child the right to benefit of family environment.

7. The constitutional rulings contain clear provisions on the protection of children and teenagers:
"Children enjoy a special regime of protection and assistance in exercising their right"; "The exploitation of minors, their use in activities damaging for their health, morality or that could endanger their life or normal development are forbidden."

(The Romanian Constitution, Art. 34, Align 1, Align 3). Thus, children, together with youths, are entitled to special protection and assistance and this right is completed by the obligation of the state to ensure the necessary conditions for the normal development of the child. But applying the contents of Art. 10. Align 3 of the International Pact for Economic, Social and Cultural Rights by constitutional provisions remains only a formal act.

8. Although constitutional norms mention the right of the child to be protected against any form of abuse coming from their family or state, we can notice that the abandonship of the child can hardly be actually sanctioned. The rulings of the Penal Code (Art. 309) incriminate and punish the crime of "abandonship by the family", not expressly incriminating the abandonship of the child. It also stipulates the situation when the minor is abandoned by the person who has the legal obligation to support them. This is the situation assimilated with the form of child abandonship. But the same article mentions that penal action is made at the complaint of the victim(previous complaint- a special penal procedure). We consider that this means stipulated by the lawmakers cannot efficiently protect the right of the child guaranteed by Constitution and the international treaties and conventions ratified by Romania. The lack of means to inform authorities on the child' abandonship creates the premises for continuing and developing this phenomenon. Thus, we can undoubtedly state that there is a certain interest in maintaining such a legal anomaly allowing the action of mafia networks, suspected to be involved in illegal adoptions, of selling Romanian children and trafficking their organs.

9. In order to eradicate this phenomenon, SIRDO asks for the urgent intervention of the Commission on Human Rights that should propose the monitoring of the effecting implementation of the UN Convention for Children's Rights in Romania by installing the capacities of the Committee for Children's Rights, of the Special Rapporteur for Children's Rights and of the specialised institutions (UNICEF). Thus, our insistence focuses on reaching a balance between the penal sanction in case of child abandonship and the protection of the family in incapacity of supporting their own children.

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Fifty-eighth session
Item 11 (e) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: RELIGIOUS INTOLERANCE

Written statement* submitted by the Romanian Independent Society of Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. * 0 0 2 0 1 0 2 7 0 *

ENG

1. Founded in 1990 based on the Romanian legal provisions regimenting the right of association, SIRDO has the purpose to defend and promote human rights and fundamental freedoms according with the principles of the UN Charter and the universal and regional conventions and treaties Romania is part to. In its programs and activities SIRDO monitors both the respect and the protection of individual as well as collective rights of minorities in difficulty, subjected to intolerance and discrimination.

2. The memoirs written by the minority historical churches, the Romanic Church United with Rome - Greek-Catholic, the Romanic-Catholic Church, the Reformed Church, the Unitarian Church, the Evangelic Church, reveal that "the existent discrimination and the lack of rights for minority churches in Romania can be proved, regarding the mobile and immobile goods confiscated with or without title during communism". Thus, Romanian, Hungarian and German origin bishops of the minority churches ask the Romanian Parliament end discriminations by normative acts, eliminate the existent restrictions on minority churches by urgent ordinance no. 94/2000 and apply the principle *restitutio in integrum* in the legal process. Also, the bishops of minority churches ask the Romanian government "to adopt a normative act for the complete and integral restitution of buildings taken over by the Romanian state abusively, so that international obligations and constitutional norms are respected.

3. The practice of those normative acts which tried to offer partial or incomplete solutions for restitution increased the degree of discrimination being the main cause of repeated conflicts between the Orthodox Church detaining most part of the confiscated goods during communism and the minority Churches asking for the respect of their right to property, integral restitution and rehabilitation. The lack of intervention from the state to sanction administrative authorities preventing or refusing the restitution disposed by legal documents affected both the restitution process of church confiscated goods and the situation of the confessional education at all levels, types and profiles.

4. Of the documents revealing the abusive measures of the communist power installed 50 years ago in Romania, we can mention that Law 174/1948 confiscated the 135 schools, 20 churches, 7 houses, 42 cultural homes, 175 buildings meant for hospitals and asylums. Also abusively taken over were church archives and objects, 9022 square meters of farming area and 6000 square meters of woods.

5. Even if the Romanian Constitution has clear provisions on the religious rights (Article 29-Freedom of conscience; according with constitutional provisions, the organisation of cults is free; it is concretised by its own status, under the law. By consecrating the separation of the state from the church, the Romanian Constitution guarantees the autonomy of religious cults (align 5), but obliges the state to support cults. At the same time, the Constitution imposes a climate of tolerance and mutual respect between adepts belonging to the various religious cults, forbidding, within relationships between cults, any forms, means, acts or actions of religious warfare), the inconsistency of the national legal framework prevents the minority Churches from exercising their cult freely. We chose for example the situation of the Romanic Church United with Rome, the Catholic-Greek Church, as it has a special situation by the fact that during communism, unlike other cults partially dispossessed of values and properties, this Church was totally confiscated the patrimony, its activity being forbidden by law. We can present the following details:

- By Decree 358/01.12.1948, the Romanian Government outlawed the Greek-Catholic Church, confiscated its entire patrimony in favour of the Orthodox Church

and thus started a savage persecution against servants of this church, who were arrested, tortured, assassinated;

- In December 1989, Decree 9/31.12.1989 abrogated the communist incriminating decree, granting the Greek-Catholic Church the right to legal existence;
- Decree 126/25.04.1990 stipulates that the Greek-Catholic Church is free to "organise and function in accordance with the general legal regime of cults in Romania" and is given back its goods, thus instituting a mix Commission formed of representatives of the state and of the Greek-Catholic Church. The provisions of this Decree were applied on an unlimited period, being unfunctional in achieving the main purpose, naming giving back the goods. Besides the fact that the state representatives refused to put on the list most of the goods confiscated, they prevented, by abusive measures, giving back certain values. Thus, the situation became such that the Bishop's Palace in Baia-Mare be sold by the State Ownership Fund to a textile factory;
- The Government Decision 466/1992 disposed giving back properties in poor state and insecure financial situation;
- Beginning with 1992, there was no legal provision to regiment giving back goods to the Greek-Catholic Church and the attitude of authorities and media was decisive on starting and maintaining conflicts between the Greek-catholic cult and the orthodox one. Thus, the Satu-Mare Cathedral, won in court since 1990 by the Greek-Catholic Cult was not given back yet and the re-possession trials have been moved in various courts in the country during the past 10 years. Due to violence started by orthodox believers of various communities many legal decisions were not applied to give back cult owning to the Greek-catholic believers. Lately, a very dangerous phenomenon leading to the prevention of restitution is the decision to demolish the cult buildings that belonged to the Greek-catholic cult. Thus, there are 10 buildings to be demolished. The Greek-catholic chapel in Baia-Mare was demolished with the support of the army the next day after the church in the locality was officialised. Also silently demolished was the building in Valea Izei. At the time, in danger are the churches in the following localities: Mihai Viteazu (Cluj County), Ungheni (Mures County), the Church of the Nicula Monastery.
- In 1948, the Greek-Catholic Church was taken 2206 churches. At present, there are in Romania a number of approximately 800,000 believers. Although an adept of the *restitutio in integrum* principle, the Greek-Catholic Church tempered its pretensions, asking for the restitution of 160 churches and the permission to have alternative service with orthodox believers in 227 churches. The results, after 12 long years of dialogue, are: the restitution of 6 churches, while alternative service was never approved anywhere.

6. Considering the situation presented, SIRDO asks for the intervention of the Human Rights Commission in co-operation with the Committee for Economic, Social and Cultural Rights and asking for the competence of the Special Rapporteur on the study of intolerance based on religion, make the Romanian Government institute the national inter-confessional dialogue by legal measures. Thus, we ask for the following:
   - the adoption and practice in urgent procedure terms of the Law of Cults that is to modify the legal framework set in 1948;
   - the respect and application of the "restitutio in integrum" principle, both in legislation and the practice of justice;
   - ensure the victims of intolerance and discrimination based on religion, physical or legal persons, the benefit of an effective recourse;
   - the promotion of tolerance and non-discrimination in religion and the belief in school and university programs;
   - the analysis of possibilities to include the attributions of the People's Advocate,

the counselling function on the respect of religious and cultural rights with extension towards the protection of liberty of though and conscience;
- offering on a large scale, especially to persons meant to protect the right to religious freedom (parliamentarians, magistrates, lawyers, public clerks) of information and norms defined by the Declaration for the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief - 1981.

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CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: INDEPENDENCE OF JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

Written statement* submitted by the Romanian Independent Society of Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. * 2 0 0 2 0 1 0 2 7 3 *

ENG

The Romanian Independent Society of Human Rights (SIRDO) is a non-governmental organisation set up in 1990 with the purpose to protect and promote human rights and fundamental freedoms, according with the principles of the UN Charter and the universal and regional conventions and treaties Romania is part to. A special attention is given to the way in which the Romanian state is preoccupied by implementing international instruments focused on the respect of human rights.

Maintaining military structures in the activities of police legal investigation within the penitentiary personnel and the Prosecutor's offices is against international standards and recommendations on penal investigation and detention, it blocks the control of civil structures over the activity developed in military regime. SIRDO's database has a considerable number of cases where persons investigated in police arrest have become victims of torture, inhuman and degrading treatment. Physical and psychological violence, the constraints, are exercised by the investigating police officers against persons who committed crimes or are suspected to have committed crimes. In this stage, torture has the purpose to make the victim recognise the accusations of the police officers and sign incriminating declarations. The prosecutors are often accused by victims of torture on exercising maltreatments, violating the legal obligations on the survey of penal investigation, the legality and basis of preventive arrest. During detention, in penitentiaries, torture committed by military personnel against prisoners is a form to punish those who protest against abuses they are being subjected to.

According with the internal legal framework, with the Penal Code and the Penal Procedure Code, in Romania only prosecutor's offices and military instances may dispose sending to court, namely judging police officers or guards using torture and maltreatment. Thus, according with Law no. 54/1993, only the military prosecutor (active officer) is the authority with exclusive competence to investigate the complaints made by persons abused during investigations.

In solving these complaints, military prosecutors rely on the police during investigations. Military prosecutors are not independent and impartial, refusing systematically to send to court police officers for abusive acts. We may conclude that the person detained subjected to maltreatment by the police finds it very difficult to defend in the abyss of authorities and procedures, not characterised by celerity.

Considering the above mentioned, the prosecutor continues the investigation in the direction signalled by police officers, not considering the statement of the person accused.

The hesitation of judges to infirm the requisitory of prosecutors, either for fear that the decisions should not be reformed by superior instances, with negative consequences on the annual qualification report, or wishing not to complicate their motivation, which tends to be suffocating.

Thus, it is seldom that instances exercise their active role in finding the truth and pronounce too easily, only on the basis of declarations made by the person accused during detention.

The impunity of authorities guilty of physical and psychological violence against individuals, the intimidation and manipulation, the formalism in the approach of complaints are already a traditional practice of persecution converted in a repressive system. These practices have deep roots in Romania's communist past experience and in the present conditions, they represent a transfer towards the new structures of power. It is clear that they make it impossible to implement international conventions and to exercise an independent civil administrative control.

All that instances do is copy the requisitory as it was written by the prosecutor and exclude or insufficiently analyse the proofs asked by the defence. An increased attention is given to the statements made by the person accused during detention, against those made during penal investigation. In order to prevent abusive acts from the police, it is a must to take the preventive arrest centres out of the authority of the Ministry of Interior and placing them under the control of the Ministry of Justice, in practice being proved that, most often, the persons subjected to maltreatments hesitate to talk about that, even to the prosecutor, for fear they should repeat at the return in the detention place.

Finally, we must mention that order 140/1974 regimenting the conditions of preventive detention has a secret character, while it is obvious that it must appear in a law that should be at the disposal of the public.

We must say that the changes in the Penal Code, in the sense of making even more difficult the punishments depriving of liberty, can only institute a repressive penal system against the real needs of social reinsertion of persons convicted. These aspects are completely against tendencies and preoccupations of the advanced countries in the direction of promoting alternative means to the deprivation of liberty, to the maximum decrease of its incidence, considering both the high costs of detention and its insecure educational character.

The Romanian legal system is affected by the provisions of constitutional norms regimenting the attributions of the Superior Council of Magistrates. Thus, the Minister of Justice is the one that presides the sessions of the Council and the one that names 1/3 of its members. By the merger of politics and justice, it is obvious that the independence of justice is not ensured in Romania, especially that the Superior Council of Magistrates has the role of discipline council of judges.

Considering these aspects that make the object of activities developed by SIRDO, we think the following measures are to be taken urgently:
- harmonise the Romanian penal legislation according with international provisions;
- demilitarise the police and the penitentiary personnel in order to have a real transparency on the activities; this measure would also lead to the possibility of investigating and judging police officers by prosecutors and civil judges;
- the change of legal norms into force in order to avoid the mixture of the political factor in justice and insure the independence of the legal system;
- strengthening the active role of judges in solving causes in order to find the whole truth of the facts and clear up the conditions of investigation for the persons accused, especially in the case of those claiming to have been victims of torture, inhuman and degrading treatments.

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Item 11 (a) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: TORTURE AND DETENTION

Written statement* submitted by the Romanian Independent Society of Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201027 6*
ENG

The Romanian Independent Society of Human Rights (SIRDO) is a non-governmental organisation set up in 1990 with the purpose to protect and promote human rights and fundamental freedoms, according with the principles of the UN Charter and the universal and regional conventions and treaties Romania is part to. A special attention is given to the way in which the Romanian state is preoccupied by implementing international instruments focused on the respect of human rights.

In 2001, SIRDO developed activities according with the objectives proposed:
- monitoring the respect of human rights in penitentiaries within the General Direction of Penitentiaries. We had some interviews with the prisoners in the penitentiaries where they are incarcerated and we received memoirs and letters from approximately 2000 persons who claim their fundamental rights were infringed;
- counselling and specialised legal assistance for persons who were subjected to torture, inhuman and degrading treatment, during penal investigation - in police arrest, during their deprivation of liberty sentences - in penitentiaries. The activities developed within the Legal Assistance Programme for Victims of Torture - Their Right to Remedies, Compensation and Rehabilitation, programme supported by the UN Volunteer Fund for Victims of Torture.

The high number of claims belonging to various categories of population on the means to achieve an act of penal justice in Romania reveals a flagrant incompatibility between the practices of legal authorities, the internal legal framework (Penal Code, Penal Procedure Code, normative acts and secret military rulings, etc.) and the standards for protection and promotion of human rights that are to be found in international treaties and conventions ratified by Romania and which, according with art. 11 of the Constitution, are part of the internal law.

The Parliament did not succeed to harmonise the internal laws on the freedom of person and make them coherent:
- maintaining Law no. 23/1969 on the regime of sentences depriving of freedom;
- Law no. 140/1996 brought changes and completed the Penal Code, increasing sentences depriving of liberty and the penal fines;
- maintaining orders and military secret rulings (example: order 410/1974 regimenting preventive arrest) from which even judges' access is prevented.

The penal legal framework into force in Romania practically annuls any possibility of the individual to be judged in the spirit of finding out the truth, the respect for human dignity, preventing the free access to justice. Manipulation, abuse, violence in the police arrest are applied frequently and constantly in the first 24 hours. The penal investigation bodies "force" the consent for declarations admitting the crime and, based on this, gathering the evidence. The abuse in this period may take various forms, from physical violence to more subtle means of intimidation and constraint.

The plaintiffs - victims of physical and psychological violence - in SIRDO's assistance described the way in which they were tortured, the methods used and the purpose of these treatments, sufficient to state that these practices are systematically applied by legal authorities in all country regions, being tolerated and even protected by officials by a sustained impunity policy of those guilty for committing torture, inhuman and degrading treatment.

The methods of torture the investigators use are physical and psychological violence against the incarcerated persons, blows applied all over their bodies in such a way as to present the minimum signs of violence:
- cuffing them in inhuman positions and suspending the victim (the "roller" method);
- rolling them in a wet carpet and hitting them with rubber sticks, feet or other objects;

- hitting the victim against the office furniture or the walls of the room;
- subjecting them to electric shocks by connecting the victim to a source of electric energy; the metallic conductors are applied on the arms, back, legs or even on genitals;
- psychological trauma: swearing, trivial and violent language, direct threats or concerning other persons (wife, relatives, friends), promises made in order to confuse the prisoner, make him psychologically unbalanced by exposing them to cold, starvation or even thirst sometimes.

The means used on practicing torture are: fists, feet, rubber sticks, baseball sticks, cuffs, metallic bars, chains, electric shocks generators, usual components of office furniture transformed in torturing instruments (chairs, metallic cupboard, the desk, etc.).

The purpose for applying torture, as resulted from the memoirs of the victims, is:
- obtaining from the victim or from a third person the recognition of the blame, information, confessions - in the sense desired by the investigators;
- punishment for an act which the victim or another person has committed or is suspected to have committed (more frequently in penitentiaries);
- to intimidate or pressure another person;
- determine the victim not to divulge certain aspects related to the penal process;

Although these aspects were announced to responsible factors within governmental structures (Ministry of Interior, Public Ministry, Ministry of Justice), the responses received by SIRDO are formal, reveal a superficial approach of torture in Romania and not a real involvement in the matter.

Torture affects, directly or indirectly, by its consequences, large categories of the population: men, women, underage, elders, persons belonging to national minorities, etc.

The high number of complaints on acts of torture during the penal investigations, their increasing frequency, the instauration of maltreatment in all regions, categories of population affected and the structure on age and gender, the purpose, the methods and the means of legal authorities, as well as the attitude of authorities of impunity towards those guilty of such cruel acts, are the basis of the statement that in Romania torture, inhuman and degrading treatment are a system accepted by the authorities. This system of constraint, physical and psychological violence, was transferred from communist dictatorship to the new structures of power.

Although Romania ratified, at October 9, 1990 the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, being obliged to respect its provisions, and although constitutional provisions forbid torture, the responsible authorities seem not to understand the importance, the legal power and the need to apply these dispositions, prevailing of old norms, with secret character and against constitutional provisions.

Because of abuses committed, of the purely formal approach of complaints received from the victims and of the constant refusal in admitting the existence of systematic practices of torture in Romania, we may say that authorities block the possibility of applying the right to remedy.

Given these arguments and considering the previous written statements forwarded by SIRDO at the 56th and 57th Sessions of the UN Human Rights Commission in Geneva, we demand:
- that the Human Rights Commission should consider the possibility that the Report written by the Special Rapporteur on Torture should be a guideline for the analysis of the practice of torture in Romania. The Commission must admit the mandate of monitoring the process of involving Romania, by answering each point in the above-mentioned report;

- that the participating effort of the states be urgented, using the competence of the UN Special Rapporteur on Torture, in sustaining the UN Human Rights Commission to institute the procedure of monitoring that should survey in Romania the means to solve the requests towards the Commission forwarded in SIRDO's statements (E/CN.4/2000/NGO/41, E/CN.4/2001/NGO/92 and E/CN.4/2001/2001/NGO/93);
- that art. 11 of the UN Convention against torture be put into practice and according to this article have the exercise of the systematic survey of rulings, instructions, methods and practices of the interrogatory and dispositions on the treatment of persons in any of the deprivation of freedom situations;
- that measures of rehabilitation for the victims of torture be instituted, in order to obtain necessary compensation to regain their rights, by exercising the right to remedy.

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COMMISSION ON HUMAN RIGHTS
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Item 13 of the provisional agenda

RIGHTS OF THE CHILD

Written statement* submitted by the European Federation of Road Traffic Crash Victims (FEVR), a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201027 9*

ENG

Road safety of children

Situation in Latin America

The present situation of traffic in the world clearly shows how the rights vulnerable road users are and how the different groups of people compare in the everyday increasing violence.

Believing that a democratic concept of civic security means the implementation of those public policies which assure to everybody the real exercise of his rights, F.A.V.A.T. (member of FEVR) is convinced that concrete solutions for the protection of children in the streets cannot be delayed anymore.

In the western political concept which prevails from the second half of last century both in America and Europe, the State has the obligation to ensure that the rights of some people does not affect those of others'. Thus one cannot continue to protect the systematic illega' activities of drivers to the detriment of pedestrians, and particularly of children.

According to this concept of road safety, the Civil Association "Familiares y Víctimas de Accidentes de Tránsito" (Road Accidents Relatives and Victims) wants to eradicate the causes of the last years' alarming official statistics. One of the most important causes of violent deaths both in Argentina and America are indeed road accidents.

Unfortunately, it is impossible to ignore the increasing ratio of injured children, which nowadays amounts to 20% of all the victims. This tragedy, which seriously affects children under 18 years is our concern because of their high level of vulnerability and because their right to live and their right to security is attacked.

According to the officials statistics, only in Buenos Aires, every day about 40 people suffer road accidents, at least 8 of whom are under 18 years. Thus, children and adolescents represent one of the main risk groups.

We are talking about thousands of kids each year, whose suffering has not been considered enough nor analysed. It is highly regrettable that in our country road accidents are the first cause of death for children above one year and for adolescents. Thus, according to the official data from '96, on a total of 177.000 children injured who required medical attention, 17.700 remain seriously injured. It is a veiled catastrophe, but people seem to be immunized or anaesthetized against this reality.

There is another reality behind this tragic situation, which has not improved since 1995: one out of four kids that survive an accident suffer either physical or psychological consequences, according to statistics from paediatric trauma.

An example of the negation of human rights, there are the remembrance plates on the front of Santa María Madre del Pueblo Church (located in humble neighbourhood in the province of Buenos Aires) for children who died. Since a long time its inhabitants have raised the problem road safety in that area, specially in front of the school and the dispensary, which are along a main road with heavy traffic. What makes the situation so very dangerous is that drivers don't even stop at traffic lights because of the fear of being robbed when they stop. Since the nineteenth century, security policy is based on the concept of "conservative order". This has created discriminatory attitudes which link poor people to criminals and considers the inhabitants of a humble neighbourhood as some kind of a second class citizen, who can live

without traffic lights because their lives have less value than those who live in middle and high class neighbourhoods, and are less significant than the fear of the drivers.

The study of road accidents –and specially of the causes of everyday accidents- is a concrete way of tackling the security and violence drama in the city. Civil servants have to protect civil rights. If innocent lives are lost due to the lack of action of those who are responsible for road infrastructure and the enforcement of regulations, the right to safety is being seriously affected.

Road accidents imply the highest ratio of children mortality both in the Industrialized and in the Third World: in developed countries, because of competitivity and industrialization; in underdeveloped ones, because of poverty and lack of prevention.

Given that the State has the duty to educate kids from every social class, and that children have the right to learn, which is a warranty of the right to security and to life, our association declares its support to eliminate the concept of the concurrent guilty (this means that both the victim and the driver are responsible for the accident) when children under 7 years are involved in road accidents and require insurance companies to pay immediately all the necessary expenses to prevent deaths or irreversible injuries.

F.A.V.A.T. proposes:

- Installation of traffic offence detectors by means of photographic control in school areas and children recreation zones.
- Installation of traffic lights in these areas.
- Control of games for children above all for driving games and their publicity.
- Implementation of a real and effective traffic education in primary and secondary schools.
- Suspension of the driving license for those who committed serious traffic offences against children and cancellation if repeated.
- Make people serve penalties, however insignificants they may seem.

Situation in Europe

The rights of life, body integrity and health of the children are often badly respected in the field of the road traffic. Indeed in the Member States of the Economic Commission of the United Nations for Europe, every year more than 17.000 children are killed on the road before their 18 th year. Most of these deaths could have been easily avoided. These children account for approximately 10% of the total number of killed on the road whereas this proportion is 20% for the Latin America.

This relatively low proportion in Europe is mainly due to a lower exposure of children to the road risks. For example, in many European countries the proportion of children accompanied to school has passed from 20% to 90% during the last 20 years. The increase in road danger led their parents and teachers to restrict their mobility, their outdoor activities and their independence. This confinement of the children generate negative consequences on their mental as well as on their physical health.

We know that the behaviour of the children is characterized by impulsiveness, need for movement, panic, limited field of vision and inability to fully interpret what they see. They only partially understand the words and the concepts of road education, let alone those of abstract signals. They are not able to elaborate the available information on the traffic situation in due time, in order to take the correct decisions (For example: cross now or wait). In other words, before 16 years, the children are not able to face modern traffic; education and training

can hardly improve these physiological characteristics.

In spite of these limitations, it is important to teach children the principles the road safety, in the pre-school establishments, the primary and secondary schools as well as within the framework of the extra-schoo! activities. It is also useful that the parents make them as visible as possible on the road, during day time by dressing them with bright colours, at night by providing them with retro- reflective elements.

Therefore the responsibility for the safety of the children falls mainly on the motorized drivers and not on the children. It is the duty of the authorities to take the necessary safety measures for them, requiring drivers to pay their greatest attention in the presence of children, by laying out infrastructures and by regulating the traffic in a suitable way. There exist many measures to decrease the number and seriousness of accidents. One of most effective is the respect of speed limitations, in particular in urban environment. In fact a reduced speed gives the driver more time to see the child, reduces the braking distance, and in the event of impact reduces the seriousness the injuries. Another measure is the fight against drink and drive. Indeed alcohol is present in more than 40% of the fatal accidents. It is thus essential to carry out regular controls of blood alcohol content of the drivers.

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INDIGENOUS ISSUES

Written statement* submitted by France Libertés, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201028 3*

ENG

An overview of the situation of the indigenous communities in resistance in Chiapas, Mexico.

We will present some statistics for Chiapas and the South East of Mexico, using information taken mainly from the Ministry of Economic Development, with our own estimates for the period 2000-2001. We also include information from the INEGI, though it must be stressed that this information is not current, having been updated only as far as 1998. The information presented gives us a very clear idea of reality in Chiapas and the South East of Mexico.

1. Some statistics for the state of Chiapas

The GDP per capita for Chiapas in the year 2001 was 6 253 pesos, while the national GDP per capita was 15 061 in the same period. Chiapas has 41.5% of the national per capita income.

2. Demographic and social statistics

In terms of population, Chiapas contains 3.36% of the inhabitants of the country. The national unemployment rate for the years 1995, 1996, 1997, 1998, 2000 and 2001 is: 6.2%, 5.4%, 3.7%, 2.5%, 2.2% and 4.1% respectively. For Chiapas, in the same years, it is: 4.9%, 5.0%, 4.5%, 4.0%, 2.6% and 4.9%. One must add that unemployment is highest in the rural areas, while in the large cities, such as Tuxtla, Tapachula and San Cristóbal, unemployment is approximately 0.3% lower than the state average.

Of the total national population, 16.6% do not speak Spanish, while in Chiapas 36.5% do not. In the country as a whole, 6.8% speak an indigenous language; in Yucatán 39.7% speak an indigenous language, in Oaxaca 36.6% of the population speak an indigenous language, in Quintana Roo 26.1%, in Chiapas 25.1%, in Campeche 15.9%. We must explain that the states of the South East of Mexico are inhabited by descendants of the maya-quiché culture, and its influence includes Chiapas, Yucatán, Campeche, Quintana Roo, Tabasco, part of Veracruz and Oaxaca, as well as Belize, Guatemala, Honduras, Costa Rica, Nicaragua and part of Panama.

As for the migration of the population, Chiapas takes first place for non-migration between states with 0.5%; 98% of its population does not migrate to any other state in the country. The federal entity with the highest internal migration is the Federal District, with a rate of 9.9%.

Chiapas occupies the last place, number 32, with 1.5% of international migrants, that is, those inhabitants who go abroad. The national average is 4.5%. The states with most migration are in the north of the country, such as Tamaulipas, San Luís and Coahuila, although Oaxaca has a high rate of migration.

3. Since 1995, 56 extra-judicial executions.

A document submitted to the United Nations Organisation records 56 cases of extra-judicial executions in Chiapas since 1995, of which 21 were women, many of them pregnant, 17 men, 14 girls and five boys, all indigenous people from the municipalities in the Altos, Selva and Northern regions of the state.

The account of extra-judicial executions begins with the Acteal massacre and includes the murder of Guadalupe Méndez López, a Zapatista woman assassinated by members of the State Public Security Police on the 12th of January 1998.

Guadalupe's eighteen month-old son and the youth Lázaro López Vázquez were wounded in

the action. It is striking that the majority of state police arrested were released on the 17th of June 1998, with only David Molina Hernández remaining as the solely responsible.

José Tila García, another sympathiser of the Zapatista Army of National Liberation, was assassinated on the 21st of February 1998 by members of the PRI-ist paramilitary group Paz y Justicia as he was returning to his community, Jolnixchtie, Primera Sección, in the municipality of Tila, after making a statement to the International Civil Commission for the Observation of Human Rights.

Also included are the executions of Trinidad Cruz Pérez, of the boy Elías Gutiérrez Ortiz, and eight Zapatistas killed in the police and military operation in the Municipality of El Bosque: Cristóbal Sánchez Sánchez, Maximino Gómez Sánchez, Antonio Gómez Gómez, Arturo Gómez Gómez, Adolfo Gómez Díaz, Bartolo López Méndez and Lorenzo López Méndez.

The human rights organisation's account details tortures suffered by persons identified with the EZLN or the opposition, and underlines the fact that in Chiapas it is a constant malaise, applied systematically to political detainees.

The tortures suffered by José Alfredo López Méndez, Francisco Arcos Gómez, Mario Santiz Ruiz and Sebastián Gómez Gómez are some of the cases documented by the CDHFBC.

The last of them, Sebastián Gómez Gómez, is a minor who was tortured, being beaten all over his body, and pressurised to talk by being asphyxiated with a plastic bag placed over his head. Later, members of the police and the army beat his head and face, and one of the torturers stood on his wounded arm in a particularly brutal manner, causing him intense pain.

The CDHFBC has compiled a long list of aggressions and persecution suffered by the defenders of human rights. Among many examples, the attack, with blows and stones, on members of the Network of Human Rights Organisations Todos los Derechos para Todos, the telephoned threats to members of the CDHFBC and the constant surveillance of the members of organisations working in Chiapas stand out.

There is abundant information on the illegal detention of human rights defenders, such as that of Luis Menéndez Medina, and of human rights promoters, such as the tzeltales Miguel Hernández Pérez, Fidelino Cruz Mendoza, Manuel Hernández Pérez and Andrés Gutiérrez Hernández.

4. Uninvestigated Attacks

On November 4, 1997 the then bishops of San Cristobal de Las Casas, Samuel Ruiz Garcia and Raul Vera Lopez, were murdered in the trailer where they lived to the north of Tila. Witnesses identified members of the group called Peace and Justice as the attackers.

Government officials Julio Cesar Ruiz Ferro, Roberto Albores Guillen and Pablo Salazar Mendiguchia, made no attempt to investigate who was responsible for the assassination of the bishops Samuel Ruiz Garcia and Raul Vera Lopez.

In February 1998 Jose Tila Lopez Garcia, an indigenous activist, was assassinated as he returned to his community after participating in a meeting with human rights groups. Again, members of the paramilitary group Peace and Justice were identified as the assassins.

In August 2001 various human rights activists, including the director of the Human Rights

Center, Fray Bartolome de Las Casas, were ambushed. Since the time of the attack, human rights groups have asked for an investigation by the State Attorney General. The authorities have given no information about their investigations.

5. Observations and Recommendations

Based on the situation in Chiapas, the following factors have been identified as the principal contributors to the constant and systematic violation of human rights in the indigenous communities:

1. The intense militarization of the area
2. The presence of paramilitary groups
3. The general situation of impunity, where attacks go unpunished
4. The lack of access to the justice system by the indigenous communities
5. The structural poverty that the indigenous communities suffer
6. Repression of indigenous organisations by the civil society
7. The lack of political will to find a respectful response to the petitions of the indigenous communities.

Based on these observations, we make the following recommendations:

1. Immediate and total compliance with the San Andres Agreement and a continuation of the process of dialogue and negotiation between the EZLN and the federal government
2. Respect for the constitutional reform initiatives of COCOPA
3. An end to the militarization and paramilitarization by returning the army to its barracks and disarming the paramilitary groups
4. Free access to the justice system by indigenous communities and an end to the lawlessness and impunity that prevails
5. Immediate amnesty for political prisoners.
6. The return of displaced people to their communities of origin with the full return of their possessions and compensation for damages and injury
7. Recognition of the international interest in the movement for human rights in Chiapas by increasing support for Mexican human rights groups and guaranteeing the presence of international human rights organisations
8. The designation of a special United Nations observer for Mexico
9. That the European Union, on the basis of its democracy and human rights clause and the agreement it signed with Mexico for political co-ordination and co-operation, establish a permanent mechanism for monitoring the human rights situation in Mexico. This mechanism should integrate the various Mexican and international human rights groups.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Written statement* submitted by Human Rights Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201028 7*

ENG

Russia/Chechnya

For the second year in a row, the Russian government has rejected a resolution expressing concern about the situation in Chechnya adopted by the Commission, and has refused to comply with its requirements. The Russian government failed to take the necessary steps outlined in Resolution 2001/24 to curb serious abuses and start a meaningful domestic accountability process. It likewise failed to establish an independent commission of inquiry or invite several of the Commission's key special mechanisms. Similarly, Chechen rebel fighters ignored the Commission's calls to respect international humanitarian law.

In 2001, the Russian government repeatedly sought to convince the international community that the conflict in Chechnya was winding down and that the situation there was returning to normal. In January, President Putin announced major troop withdrawals and, in September, stated that Russia was ready for peace negotiations. However, in reality little changed; only a very small percentage of Russian troops in Chechnya was actually withdrawn and the first official contact between government and rebel representatives since the start of the conflict yielded no tangible results.

Neither process has affected the persistent cycle of abuse perpetrated by Russian and Chechen forces. Civilians in Chechnya suffer both from ruthless sweep operations by Russian troops and abusive guerilla tactics employed by rebel fighters. In 2001, Human Rights Watch continued to document sweep operations during which Russian troops arbitrarily detained thousands of people and tortured or ill-treated many of them. Human Rights Watch documented more than a dozen extrajudicial executions, including the execution of six men who were detained during a sweep operation in Alkhan-Kala, and dozens of forced disappearances. Chechen rebel forces were widely believed to be responsible for a series of assassinations of civilians seen as cooperating with the pro-Moscow government, bomb attacks near Russian positions, the kidnap of a foreign aid worker, and the murder of a Russian human rights activist.

During a December 2001 research trip to the region, Human Rights Watch documented serious violations of human rights that occurred in the the last quarter of 2001. Human Rights Watch received credible information about the forced disappearance of more than twenty people in the custody of Russian troops, and about another seven cases in which the corpses of men last seen in the custody of Russian forces were found in unmarked graves or dumped by the sides of roads. For example, on December 9 at 2:30 a.m., about twenty masked and armed men in camouflage uniforms—speaking unaccented Russian—burst into the home of the Yunusov family in Alkhan-Yurt. They ordered family members present to lie on the floor, covered them with mattresses, and taped the mouths of several, including a four year-old girl and seventy-two-year-old woman. They took away fifty-three-year-old Musa Yunusov and nineteen-year-old Lom-Ali Yunusov, and then torched their house. Relatives' appeals for information on the whereabouts of the two men were unsuccessful. Five days later, their the two corpses were discovered among five others dumped in the woods in a Grozny suburb. The hands and head of Musa Yunusov had been blown off. Lom-Ali Yunusov's body bore numerous knife wounds and had been pierced in several places.

Human Rights Watch researchers also documented the death of twenty-three-year-old Madina Mezhieva and her sixteen-year-old nephew Amkhad Gekhaev near the village of Komsomolskoe in October 2001. The two victims were reportedly transporting turnips from a field to the village when a military helicopter opened fire on their car. Eyewitnesses saw the helicopter descend and then take away the two passengers, who were apparently still alive. The military commander's office in Gudermes released their mutilated bodies—both were missing limbs—to family members several days later.

Recent research also indicated that Russian forces systematically loot civilians during sweep operations, and that extortion at checkpoints throughout Chechnya remains endemic. Human Rights Watch also found several incidents of indiscriminate fire that caused civilian deaths and destruction of civilian property.

Although the number of investigations into abuses committed in Chechnya rose significantly in 2001, few cases were conducted in a meaningful manner. A list of 358 criminal investigations into alleged abuses against civilians, prepared for the Council of Europe in April, showed that only about 20 percent of the cases were under active investigation; more than half had been suspended. In "disappearance" cases as many as 79 percent of the investigations had been suspended. The criminal investigations list did not include a single case of torture or ill-treatment. Very few abuse cases had progressed to the courts. Courts issued guilty verdicts against servicemen in eleven cases, five of which resulted in prison sentences.

The only trial against a high-ranking military official, for the murder of a Chechen woman in March 2000, seemed set to end in a minimal sentence. In September, a psychiatric institution found that Colonel Yuri Budanov was "emotionally distressed" at the time he murdered Elza Kungaeva, allowing the charge to be reduced to manslaughter, and opening the way for him to be amnestied. Earlier, prosecutors had dropped a rape charge, despite convincing evidence that she had been sexually assaulted.

In the light of these circumstances, Human Rights Watch calls upon the Commission to adopt a resolution on the Chechnya conflict, calling on Russia to issue invitations to the relevant thematic mechanisms and to invigorate the domestic accountability process. In light of the failure by Russia to establish a national commission of inquiry, and the utter lack of an official record of violations of international human rights and humanitarian law committed in the conflict, the resolution should establish an international commission of inquiry, mandated to investigate and document atrocities committed by both sides.

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SPECIFIC GROUPS AND INDIVIDUALS: MINORITIES

Written statement* submitted by All For Reparation and Emancipation (AFRE), a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s)

GE. * 2 0 0 2 0 1 0 2 8 9 *

ENG

1. The United Nations has not, as yet, recognized us: we who are the African American peoples or nations in North, Central and South America and the Diaspora. Four hundred years of plantation slavery and its lingering effects have left us deprived of and denied our mother tongue and thus outside a definite place within the UN system. For the past six years, on behalf of the African American people in the United States, Mr. Silis Muhammad has traveled to the UN at Geneva to deliver numerous prayers for recognition and restoration. He has asked that the UN to find or make a category in which we, the African American, will fit; for at present, we have no collective human rights.

2. In the Americas Region and throughout the Diaspora we, who are the descendants of slaves, are filled with dissatisfaction, and many of us do not know its source. The African American people in the United States are perhaps the first to recognize the source of our pain and the gravity of our situation. We know that we have been forcibly cut off, severed from our original identity: our mother tongue, religion and culture: those very things that give life to peoples. We have been as "dead" for 400 years. Today we are experiencing, in reality, the process of ethnogenesis: a word that describes the coming to life again of a people who have been scattered, forcibly cut off, severed; now seemingly assimilated, within the country of our domicile.

3. We have cried out in many ways over many years for the restoration of our dignity as a people. Yet the U.S. Government and other nations commit, daily, the international wrongful act of denying our existence while claiming respect for human rights. It is our desire to reconstitute ourselves and reconstruct our lost ties, with UN assistance. It is also our desire to receive reparations from the U.S. Government for the ongoing loss of our mother tongue and our internationally recognized political identity.

4. We recognize that the United Nations has made some attempts to assist us. In 1997 the Sub-Commission on the Promotion and Protection of Human Rights passed a resolution, #E/CN.4/SUB.2/RES/1997/5, in which the Sub-Commission called upon the Working Group on Minorities to consider how the Sub-Commission in its future work might usefully address the continuing legal, political and economic legacies of the African slave trade, as experienced by Black communities throughout the Americas. In 1998 the Sub-Commission again passed a resolution, #E/CN.4/SUB.2/RES/1998/24, in which the Sub-Commission urged the Working Group on Minorities to include on its agenda an item on issues related to the legacies of the slave trade on the Black communities throughout the Americas.

5. The Working Group on Minorities is aware that we, the African American people, do not fit into a category within the UN system due to the immoral slavery and its illegal lingering effects: especially the deliberate acts of the U.S. Government. In 1998 the Working Group assigned Mr. Jose Bengoa to write a working paper on the existence and recognition of minorities. In the year 2000 this working paper, #E/CN.4/Sub.2/AC.5/2000/WP.2, was presented to the Working Group on Minorities, and accepted by the group. In the paper Mr. Bengoa demonstrated an astute understanding of the ethnogenesis of African Americans. Regrettably this distinguished paper has not been selected for presentation on the Sub-Commission floor.

6. To date, the Sub-Commission has not invited the Working Group on Minorities to report specifically on the work and study that it has been engaged in regarding African Americans. Consequently, the Sub-Commission has not addressed the continuing legal, political and economic

legacies of the African slave trade as it had in 1997 indicated a desire to do. While we appreciate and highly value the efforts of the Working Group on Minorities on our behalf, we believe that little progress can be made in our recognition and restoration without the continued interest of the Sub-Commission.

7. Therefore we urgently recommend that the Commission on Human Rights pass a resolution requesting that the Sub-Commission on the Promotion and Protection of Human Rights place African Americans on its agenda, alongside Indigenous Peoples and Minorities. Placement on the agenda of the Sub-Commission would be a welcome first step in official UN recognition of the African Americans.

8. As the World Conference Against Racism demonstrated to the world, African Americans in the Americas Region and the Diaspora are united in a mass call for reparations. In response to the mass call for reparations, the World Conference, in it's Program of Action, made a request of the Commission on Human Rights as follows: "7. Requests the Commission on Human Rights to consider establishing a working group or other mechanism of the United Nations to study the problems of racial discrimination faced by people of African descent living in the African Diaspora and make proposals for the elimination of racial discrimination against people of African descent."

9. The World Conference Against Racism, in paragraph 14 of its Declaration, recognizes that for African Americans, racial discrimination is a consequence of slavery. Thus we would welcome a working group or other mechanism of the Commission on Human Rights if the mechanism has as its primary focus the lingering effects of slavery, and the restoration of our people. In particular, we would request that the proposed working group or other mechanism focus upon the establishment of category in which the UN and world community can recognize African Americans collectively and provide for reparations and restoration of the human rights of the African American people. We would also urge the Commission on Human Rights to take advantage of the work that has already been accomplished by the Working Group on Minorities on behalf of African Americans, and in particular the scholarship of Mr. Jose Bengoa.

10. In our view, and in the view of the organizations and leaders that support us, the dissatisfaction of our people will not be addressed with solutions that are ultimately superficial. The United Nations, and the national governments that have authority over us, cannot repair the damage done by slavery with reparations such as development money, affirmative action or anti-discrimination laws alone. We have lost our original identity and we have been forced to assume the identity of our slave masters. One man cannot live in another mans "skin." It is against nature, and inhumane. Our dissatisfaction will increase until our ethnogenesis is recognized and our human rights are restored.

11. At the World Conference Against Racism the U.S. Government turned its back and walked out on our cries with the same disdain that it has shown internally toward our cries for 400 years. Today we turn to the Commission on Human Rights and the world community with increasing urgency. We fear that if our prayer for UN recognition of our existence is not heard, and if restoration does not take place, we will not be able to hold back a flood of anger that the world only glimpsed in Durban, South Africa.

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 11 (g) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

Written statement* submitted by Friends World Committee for Consultation (Quakers), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201029*

ENG

Conscientious Objection to Military Service

1. Friends World Committee for Consultation (Quakers) welcomes the decision of the UN Commission on Human Rights in Resolution 2000/34 to request the Office of the UN High Commissioner for Human Rights to prepare a compilation and analysis of best practices concerning the recognition of conscientious objection to military service and the provision of alternative service. This should provide a valuable tool to assist States in reviewing their current laws and practices (as called for by Resolution 2000/34) and in making appropriate provision for the right of conscientious objection to military service.

2. For more than 300 years, Quakers have refused to participate in war, believing it is wrong to kill or to train people to kill. This is a conviction held by many people of different religious faiths and beliefs. It is on these grounds that Quakers claim the right to conscientious objection to military service, not only for themselves but for all who share their pacifist beliefs.

3. We therefore welcome the increased emphasis nationally, regionally1 and internationally that is being given to the right of conscientious objection to military service; in particular, at the international level by the Human Rights Committee in its consideration of reports from States parties to the International Covenant on Civil and Political Rights, and by the Special Procedures of the UN Commission on Human Rights. We note that the Working Group on Arbitrary Detention has adopted a specific Recommendation (No. 2) on "Detention of conscientious objectors" which recommends "all States that have not yet done so adopt appropriate legislative or other measures to ensure that conscientious objector status is recognised and attributed" and "to prevent the judicial system from being used to force conscientious objectors to change their convictions." 2 Furthermore, in 1999 the Sub-Commission on the Promotion and Protection of Human Rights called upon "all States that retain the death penalty especially for refusal to undertake military service or for desertion not to apply the death penalty where the refusal to undertake military service or the desertion is the result of conscientious objection to such service".3 In this context it is important to understand that the right of conscientious objection to military service exists independently of the question of alternative service. Although many States require an alternative form of service, this is not a necessary condition for the recognition of the right of conscientious objection and some states have made provision for unconditional exemption in certain cases.

4. Friends World Committee for Consultation (Quakers) welcomes these steps forward, and looks forward to receiving the Compilation and Analysis of best practices called for in Commission resolution 2000/34. However, FWCC believes that the Compilation and Analysis should cover all aspects of the issue covered by Commission resolution 1998/77, and, since this is a compilation of "best practices" in so far as State practice goes beyond the minimum required by the Commission resolution, such practices should also be included. Furthermore, it is essential to cover the process of military recruitment itself. It is self-evident that no effective provision can be made for conscientious objection to military service, unless military service itself meets certain

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1 See for example, the decision of the European Committee of Social Rights, under the European Social Charter in Complaint No. 8/2000 by the Quaker Council for European Affairs (QCEA) Against Greece, adopted on 25 April 2001

2 Report of the Working Group on Arbitrary Detention (E/CN.4/2001/14 of 20 December 2000), *Recommendation 2: detention of conscientious objectors*, paras. 91-94

3 Sub-Commission Resolution 1999/4 of 24 August 1999, paragraph 3

minimum requirements. These must at least entail that:

(i) Any recruitment (whether compulsory or voluntary) is prescribed by law.
(ii) The law is clear as to whom it applies by specifying such matters as the age range, the sex, nationality, and any exemptions whether on grounds of conscience, or other grounds.
(iii) The law is publicised so that it is known to those liable to recruitment and those not liable to it, and that they are also informed about what safeguards and appeal procedures exist.
(iv) The law is enforced by lawful means, and that there are adequate safeguards to ensure that the laws are applied, including provisions for checking the age of recruits, and military disciplinary or criminal penalties exist and are applied in relation to recruiters who contravene the legal recruitment procedures.

Moreover, we believe that the more detailed and specific the information provided, and the greater the range of good models included in the Compilation and Analysis in relation to each aspect, the greater the assistance it will provide to States and others in developing or improving provision for conscientious objection to military service. The report to the 58th session of the UN Commission on Human Rights should therefore be considered as a preliminary one, and further input should be sought from States, national human rights institutions, non-governmental organisations and others to enable a more comprehensive one to be provided to the 60th session of the Commission.

5. Regrettably, many conscientious objectors are still not recognized as such, continue to be imprisoned, are subjected to repeated call-ups and imprisonment. Others are harassed, ill-treated and discriminated against.

6. FWCC is therefore calling on the Commission on Human Rights to again urge all States to take early action to review their laws and practices in the light of resolution 1998/77 as called for by resolution 2000/34. In particular, the Commission should call on all States to:

(a) Immediately recognize the right of conscientious objection to military service as a legitimate expression of the freedom of thought, conscience and religion, if they have not yet done so;
(b) Release all conscientious objectors from imprisonment and, in particular, refrain from calling up for military service those who have already served prison terms for their refusal to perform such service on grounds of conscience;
(c) Set a timetable for the review of their laws and practices on conscientious objection to military service and the provision of alternative service;
(d) Pending the completion of such a review, to declare an immediate moratorium on actions against those claiming the right of conscientious objection to military service, in particular, under no circumstances to apply the death penalty to those who refuse to undertake military service or who desert because of their conscientious objection to such service; and
(e) Provide asylum (with the assistance of the Office of the United Nations High Commissioner for Refugees) to conscientious objectors compelled to leave their country of origin because they fear persecution owing to their refusal to perform military service.

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 13 of the provisional agenda

RIGHTS OF THE CHILD

Written statement* submitted by Friends World Committee for Consultation (Quakers), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. * 2 0 0 2 0 * 0 2 9 3 *
ENG

Child Soldiers

1. Friends World Committee for Consultation (Quakers) is submitting this written statement on behalf of the Coalition to Stop the Use of Child Soldiers, the members of whose Steering Committee are: Amnesty International, Defence for Children International, Human Rights Watch, International Federation Terre des Hommes, Jesuit Refugee Service, Quaker United Nations Office Geneva, Rädda Barnen (Swedish Save the Children, on behalf of the Save the Children Alliance) and World Vision International, as well as regional non-governmental organisations from Africa, Latin America and Asia.

2. The Coalition to Stop the Use of Child Soldiers welcomes the fact that enough States have ratified the Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict to bring it into enter into force on 12 February 2002. As of 7 January 2002, 13 States had ratified and 93 signed this Optional Protocol. The Coalition is pleased to note not only the number of States signifying their commitment to end the use of children in combat, but that of the ratifying States all but three have indicated in their declarations under Article 3 of the Protocol that they have a voluntary recruitment age of at least 18 years. The Coalition is looking forward to the Committee on the Rights of the Child's consideration of State reports under the Optional Protocol, and is pleased to note that the Committee has adopted Guidelines for these reports (CRC/OP/AC/1).

3. The 56th UN General Assembly endorsed the Committee's request for the UN Secretary-General to conduct an in-depth study on the issue of violence against children and to put forward recommendations for appropriate action, including effective remedies and preventive and rehabilitation measures. It is essential that this study include the juvenile justice issues taken up by the Committee at its first thematic discussion day on "State Violence against Children" (22 September 2000), when it recommended, *inter alia*, that States parties to the Convention review any special legislation applying to children under 18 years in their armed forces to ensure that it reflects appropriately the provisions of the Convention, the UN Standard Minimum Rules for the Administration of Juvenile Justice and the UN Rules for the Protection of Juveniles deprived of their Liberty, and other applicable standards. We urge all states who currently have under-18s in their armed forces to undertake such a review as a matter of urgency.

4. The whole issue of the appropriateness of the application of military law to children and juveniles merits serious attention, and should be included in the updated report on the evolution of the administration of justice through military tribunals which Mr Louis Joinet is preparing for the UN Sub-Commission on Promotion and Protection of Human Rights. Children and juveniles come before military tribunals if they are part of the government armed forces, including as pupils in military schools if they have the status of members of the armed forces. Children and juveniles may also be tried by military tribunals if they are captured fighting with opposing armed forces or armed groups.

5. The Coalition to Stop the Use of Child Soldiers calls on all governments and armed groups who currently recruit under-18s to stop doing so and to demobilise or otherwise release into safety any under-18s in their ranks. In particular, governments and others with influence are urged to use it to ensure that those armed groups who have made commitments not to recruit children and to demobilise those in their ranks, do fulfil them and to ensure that all demobilised children – boys and girls – are given access to appropriate rehabilitation and reintegration processes. In this

context, we also urge States to provide training in child rights and child protection for their armed forces, including all personnel engaged in peace-keeping and peace support operations.

6. The Rome Statute for an International Criminal Court proscribes all recruitment (conscription or enlistment) of children under 15 years and all active use of them in hostilities as a war crime in both international and non-international armed conflicts. The Coalition to Stop the Use of Child Soldiers welcomes the increasing number of ratifications of the Statute, and calls on all States, whether or not they are or plan to become parties to it, to make all recruitment and use in hostilities of children under 15 years a war crime, including providing for the exercise of universal jurisdiction over this crime.

7. The Coalition welcomes the establishment of the expert committee to supervise the implementation of the African Charter on the Rights and Welfare of the Child. The Charter requires States parties not to recruit children under 18 years and to take all necessary measures to ensure that children do not take part in hostilities. In relation to this provision, we encourage the Committee to take account of the issues and questions identified in the Guidelines for State reports under the Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict.

8. The inclusion of a prohibition on forced or compulsory recruitment of children for use in armed conflict in the ILO Worst Forms of Child Labour Convention (182), has led to increased attention to this issue from the ILO. We welcome the inclusion of this issue in the ILO *Global Report on Child Labour* to be issued later this year and considered at the International Labour Conference. Similarly, the issue of trafficking of children for armed conflict is included in the ILO International Programme on the Elimination of Child Labour (IPEC) report on *Trafficking of Children: The problem and responses worldwide*. The linkages between the issues of child soldiering, child labour and trafficking of children are, therefore, being increasingly recognised.

9. The Coalition to Stop the Use of Child Soldiers calls on the Commission on Human Rights to:

(a) Welcome the entry into force of the Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict on 12 February 2002;
(b) Urge all States who have not yet done so to become parties to this Optional Protocol, without reservations, and to declare a minimum voluntary recruitment age of at least 18 years;
(c) Welcome the UN General Assembly's endorsement of the Committee on the Rights of the Child's request that the UN Secretary-General conduct an in-depth study on the issue of violence against children, and request the inclusion of children who are subject to military law in that study;
(d) Call on States to review their national legislation as recommended by the Committee on the Rights of the Child at its first day of discussion on Violence against Children (22 September 2000), in particular to ensure that any military law under which children or juveniles could be tried is compatible with the provisions of the Convention on the Rights of the Child and the international standards on juvenile justice;
(e) Welcome the decision of the Sub-Commission on Promotion and Protection of Human Rights (E/CN.4/Sub.2/DEC/2001/103) to request Mr Louis Joinet to update his interim report on the evolution of the administration of justice through military tribunals, and encourage him to include issues in relation to children and juveniles in this, taking into

account the Convention on the Rights of the Child and the international standards on juvenile justice.

(f) Urge all States who have not yet done so to become parties to the ILO Worst Forms of Child Labour Convention (182) and the Rome Statute of the International Criminal Court;

(g) Propose that States provide in their domestic law for (at least) all recruitment and use in hostilities of children under 15 years to be a war crime with provision for exercising universal jurisdiction over this crime; and

(h) Encourage all member States of the OAU who have not yet done so to sign and ratify the African Charter on the Rights and Welfare of the Child.

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 11 (d) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

Written statement* submitted by Friends World Committee for Consultation (Quakers), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. *200201029 5*

ENG

Juvenile Justice

1. Quakers have been concerned about the treatment of prisoners and the administration of justice for over 300 years. In the seventeenth century, many Quakers were imprisoned for their beliefs, and others were imprisoned at a later stage because of their conscientious refusal to perform military service. In addition to the personal experience of imprisoned Quakers, the ill-treatment of those in prison, the application of the death penalty, and the concept of punishment for offenders rather than restoration and reform, contravene the fundamental tenets of Quaker belief in the God-given value of each human being and their capacity for transformation.

2. Friends World Committee for Consultation (Quakers) would, therefore, like to draw the attention of the UN Commission on Human Rights to certain specific issues in relation to the treatment of children and juveniles.

3. The Convention on the Rights of the Child (Article 37.a), the International Covenant on Civil and Political Rights (Article 6.5) and the two 1977 Additional Protocols to the four Geneva Conventions of 1949 all prohibit the imposition of the death penalty on persons under 18 years at the time of the commission of the offence. In 2000, the Sub-Commission on the Promotion and Protection of Human Rights adopted resolution 2000/17 which *inter alia*, affirmed that this prohibition is part of customary international law. In resolution 2001/68, the Commission welcomed this Sub-Commission resolution. Quakers oppose the use of the death penalty under any circumstances, but the clear international legal prohibition in relation to its application on child and juvenile offenders, makes it inexcusable that this prohibition is not universally applied in practice. Furthermore, the prohibition contains no exceptions and is not subject to any form of derogation in relation to children or juveniles who come under military law, whether as part of their own government's armed forces, or in opposing armed forces or armed groups, or as civilians.

4. Specific international standards in relation to juvenile justice have been developed, in addition to those contained in the Convention on the Rights of the Child itself. However, it is by no means clear that they are taken into account in all situations, in particular, where children or juveniles come under military law or under national security, state security, counter-terrorism or similar legislation. There are two distinct situations where these concerns arise:

(i). In those countries where children or juveniles are recruited into the armed forces, or are in schools run by or under the control of the armed forces, and are therefore subject to military law, punishment and discipline. In these instances both the provisions of military law, and the applicable procedures, penalties and safeguards for children and juveniles under it, should be reviewed to ensure their compatability with the Convention and other juvenile justice standards.

(ii). Faced with international disturbances, internal strife or internal armed conflict, governments often introduce or activate special legislation – emergency legislation, national security or state security laws, martial law, counter-terrorism or similar legislation – designed to provide greater powers to the police or security forces. These are also situations in which children and juveniles are at risk of becoming involved with oppositions groups (whether armed or not), either voluntarily or under compulsion or coercion, or are perceived as being so involved. In such circumstances, governments also have a tendency to lower the age of criminal responsibility. There is, therefore a particular need to ensure the protection of children and juvenile suspects under such laws.

5. We, therefore, warmly welcome the recommendations in relation to juvenile justice issues of the Committee on the Rights of the Child adopted at its first day of discussion on the theme of violence against children (22 September 2000). In particular, the Committee recommended:

> "that States parties review all provisions of criminal legislation, including on criminal procedure, dealing with children under eighteen (including any special legislation applying to armed forces) so as to ensure that it reflects appropriately the provisions of the Convention on the Right of the Child (articles 37 and 40). It also recommends that States parties consider incorporating into all relevant domestic laws and regulations ... the provisions of the UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules, adopted by GA resolution 40/33 of 29 November 1985), of the UN Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines, adopted by GA resolution 45/112 of 14 December 1990), of the UN Rules for the Protection of Juveniles Deprived of their Liberty (adopted by GA resolution 45/113 of 14 December 1990), and of the UN Guidelines for Action on Children in the Criminal Justice System (the Vienna Guidelines, adopted by ECOSOC resolution 1997/30)."

The Committee also recommended that:

"States parties review emergency and/or national security legislation to ensure that it provides appropriate safeguards to protect the rights of children and prevent violence against them, and that it is not used inappropriately to target children (for example, as threats to public order or in response to children living or working on the streets)."

6. The 56th UN General Assembly endorsed the Committee's request for the UN Secretary-General to conduct an in-depth study on the issue of violence against children and to put forward recommendations for appropriate action, including effective remedies and preventive and rehabilitation measures. It is essential that these juvenile justice issues are included in the scope of this study and that input is sought from those within the UN system and outside who have expertise on juvenile justice issues.

7. The whole issue of the appropriateness of the application of military law to children and juveniles merits serious attention, and should be included in the updated report on the evolution of the administration of justice through military tribunals which Mr Louis Joinet is preparing for the UN Sub-Commission on Promotion and Protection of Human Rights. Children and juveniles come before military tribunals if they are part of the government armed forces, including as pupils in military schools if they have the status of members of the armed forces. Children and juveniles may also be tried by military tribunals if they are captured fighting with opposing armed forces or armed groups, or even sometimes despite being civilians.

8. The debate surrounding the creation of the Special Court for Sierra Leone highlighted the need for greater consideration to be given to the creation of effective systems of juvenile justice, including in post-conflict situations and societies in transition, and that these should be based on the principles of restorative justice. Although the creation of such systems is a State function, there is a role for other States and bodies in providing technical and financial assistance.

9. Friends World Committee for Consultation (Quakers) calls on the Commission on Human Rights to:

(a) Welcome the UN General Assembly's endorsement of the request of the Committee on the Rights of the Child that the UN Secretary-General conduct an in-depth study on the issue of violence against children, and request the inclusion of children who are subject to military law, and of children and national security, state security, counter-terrorism and similar laws in that study;

(b) Call on States to review their national legislation as recommended by the Committee on the Rights of the Child at its first day of discussion on Violence against Children (22 September 2000), in particular to ensure that any military law, national security, state security, counter-terrorism or similar laws under which children or juveniles could be tried, are compatible with the provisions of the Convention on the Rights of the Child and the international standards on juvenile justice.

(c) Urge States to incorporate into their national legislation the international standards on juvenile justice as well as the relevant provisions of the Convention on the Rights of the Child.

(d) Confirm that the imposition of the death penalty on persons under 18 years at the time of the offence is in contravention of customary international law.

(e) Urge States to ensure that under their legislation and practice no child can be sentenced to the death penalty, to life imprisonment without the possibility of release, to forced labour or to corporal punishment.

(f) Welcome the decision of the Sub-Commission on Promotion and Protection of Human Rights (E/CN.4/Sub.2/DEC/2001/103) to request Mr Louis Joinet to update, without financial implications, his interim report on the evolution of the administration of justice through military tribunals, and encourage him to include issues in relation to children and juveniles, both civilian and military, in this, taking into account the Convention on the Rights of the Child and the international standards on juvenile justice.

(f) Call on states to develop systems of juvenile justice based on the principles of restorative justice, including in post-conflict situations and societies in transition, and urge the international community to support efforts to do so including through financial and technical assistance.

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 11 (a) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF: TORTURE AND DETENTION

Written statement* submitted by the International Rehabilitation Council for Torture Victims (IRCT), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. 0 2 0 2 0 - 0 2 9 7

ENG

The IRCT wishes to draw the Commission's attention to a number of current issues related to the implementation of the prohibition against torture and other cruel, inhuman or degrading treatment and punishment.

The IRCT would like to emphasise the importance of the work of the UN Voluntary Fund for Victims of Torture (UNVFVT) in providing support for the rehabilitation of torture victims. In this regard, the IRCT urges governments to consider increasing their contributions to the Fund in order to better meet existing needs. It is a matter for serious concern that only a small fraction of torture victims worldwide have the possibility to obtain rehabilitation treatment, counselling or support services. In the year 2000, the gap between the amount in the Fund and the requests for funding received was over US$ 3 million, a very large discrepancy, and one which nevertheless represents only a portion of the currently existing global needs.

Since the 11 September terrorist attacks, the IRCT has witnessed a deterioration in respect for basic human rights and freedoms across the world, not least in a number of prominent western democracies. Legislative measures taken by the United States, the United Kingdom and other countries in the wake of September 11, especially as regards the detention, interrogation and trial of suspected terrorists, are cause for real concern.

In the IRCTs opinion it is both a false opposition and, in the longer term, counter-productive, to respond to one human rights violation by introducing, in some cases, draconian (if introduced then are new) laws that restrict or curtail some of the most fundamental of civil and political rights. The spectre of terror calls for courage and conviction by political leaders, who can demonstrate by their actions that the open society, in which the rights of the individual citizen are cherished and protected by the State, is worth preserving even in the face of external threats.

The IRCT is convinced that the most effective response to terror and violence is to provide renewed support to the global human rights movement and to prevent governments from silencing the voice of democracy and respect for human rights. It is in those societies that repress their population with impunity that agents of terror and violence are able to flourish.

Another issue of concern for the IRCT is the increasing intolerance and disinterest shown by a number of Western countries towards the plight of refugees and asylum seekers. Many refugees are themselves victims of torture. Treating asylum-seekers as if they were a public nuisance or, even worse, as criminals, places them at risk of retraumatisation. The closing of borders to refugees, furthermore, and the mandatory detention of all illegal arrivals, which is common practice in Australia and in a number of other countries, jeopardises the legal right of victims of torture at international law to obtain redress and rehabilitation, including those measures necessary for their recovery and effective reintegration into society.

The IRCT calls upon the international community to work together to ensure that refugees receive proper protection in accordance with the principles of international law enshrined in the 1951 Convention relating to the Status of Refugees.

The IRCT also wishes to stress the importance of incorporating a mental health care component in all initiatives for the support of refugees and internally displaced peoples. Addressing the psychological needs of populations suffering from the effects of torture and trauma is an important element in overall efforts to rebuild broken communities.

Another issue of importance to the IRCT is the need for a UN Special Rapporteur to address violence against children. Children have special needs and require more extended protection under international law because of their particular vulnerability. At present, there is a lack of a global, comprehensive approach among international human rights mechanisms concerning the rights of the child and especially the issues of physical and psychological violence. The establishment of a Special Rapporteur would fill this gap.

The IRCT wishes to recall the most recent report of the Special Rapporteur on Torture to the Commission, in which he identified putting an end to de facto and de jure impunity as the single most important initiative needed to effectively combat torture. The reality at present is, as is well known, that very few perpetrators of torture or other gross human rights violations are ever brought to justice. Impunity is not only an obstacle to the eradication of torture; it prolongs, and in many cases compounds, the ongoing effects of the act of torture on the lives of victims.

The IRCT, therefore, urges adoption of international instruments combating impunity and congratulates those 48 countries that have already ratified the 1998 Rome Statute of the International Criminal Court. The IRCT encourages governments yet to do so to consider ratifying the Statute in the near future, with a view to ensuring that 2002 is the year that the Statute enters into force.

The right to reparation for human rights violations is another important tool in combating impunity and in providing victims of torture with access to justice. In this respect, the IRCT urges the Commission to prioritise the adoption of the UN Draft Basic Principles and Guidelines on the Right to Reparation for Victims of Gross Violations of Human Rights and Humanitarian Law.

The International Rehabilitation Council for Torture Victims (the IRCT) is an independent, international health professional organisation, which promotes and supports the rehabilitation of torture victims and works for the prevention of torture worldwide. The IRCT collaborates with, or supports, more than 200 rehabilitation centres or programmes in every region of the world. It is the strong conviction of the IRCT that the prevention of torture and the rehabilitation of torture victims, is an essential component in efforts to promote of peace and security, the prevention of conflict and the reconciliation of former enemies.

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 17 (a) and (b) of the provisional agenda

PROMOTION AND PROTECTION OF HUMAN RIGHTS: STATUS OF THE INTERNATIONAL COVENANTS ON HUMAN RIGHTS; HUMAN RIGHTS DEFENDERS

Written statement* submitted by the International Rehabilitation Council for Torture Victims (ICRT), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. * 2 0 0 2 0 - 0 2 9 9 *

ENG

This year, 2002, marks the 15th anniversary of the UN Convention against Torture's entry into force. This year, the International Rehabilitation Council for Torture Victims (IRCT) is again leading a global appeal to call upon the governments of the world to ratify and adhere to the Convention, and in so doing, to further contribute to bringing an end to a world in which torture is tolerated.

To date, no more than 127 States have ratified this important UN Convention. Throughout 2002, the IRCT, on behalf of the Coalition of International NGOS against Torture (CINAT), will target those countries yet to ratify the Convention, as well as those States Parties which do not recognise the full competence of the UN Committee against Torture. In particular, the appeal will call upon governments to empower the Committee to accept and consider individual communications (Art. 22). The IRCT will call upon all States Parties to fully comply with the obligations in the Convention to combat torture and to work towards its prevention.

The IRCT acknowledges those 13 countries which did respond to the global appeal in 2001. Several countries have already taken action in response to the campaign; others have indicated that they intend to do so in the near future. The IRCT calls upon all countries which have so far remained silent to respond to the campaign in the near future, declaring their intentions regarding the ratification of the UN Convention against Torture. The global appeal, coordinated by the IRCT, is aiming for no less than 130 States Parties to the Convention by the end of 2002.

The IRCT welcomes recent progress in the UN working group charged with the elaborating an optional protocol to the UN Convention on Torture. The IRCT supports the inclusion of both national and international elements in the protocol, so long as the full powers of the international body are maintained; this is critical for the Protocol to have real value.

In this regard, the IRCT wishes to emphasise the work that many rehabilitation centres are already doing, either informally or in partnership with national authorities, in the prevention of torture and in undertaking preventive prison visits. Rehabilitation personnel have special expertise in the treatment, documentation, investigation and, not least, prevention of torture. The IRCT is concerned that a weak optional protocol may indirectly threaten the ongoing role of rehabilitation personnel in undertaking prison visits and other torture prevention initiatives.

In a number of countries, health professionals have been targeted and subjected to harassment, arbitrary arrest or violence, due to their ability to identify and document cases of torture. Over the past twelve months, members of the IRCT network in Congo, Mexico, Sudan, Indonesia and Turkey have faced threats. The IRCT is strongly committed to securing the protection of those working in support of victims of torture. In this respect, the IRCT therefore calls on all Member States to provide their full support to the work of the UN Special Representative on Human Rights Defenders. The IRCT further encourages all Member States to promote the ongoing implementation of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

The International Rehabilitation Council for Torture Victims (the IRCT) is an independent, international health professional organisation, which promotes and supports the rehabilitation of torture victims and works for the prevention of torture worldwide. The IRCT collaborates with, or supports, more than 200 rehabilitation centres or programmes in every region of the world. It is the

strong conviction of the IRCT that the prevention of torture and the rehabilitation of torture victims, is an essential component in efforts to promote of peace and security, the prevention of conflict and the reconciliation of former enemies.

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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Joint written statement* submitted by Centre Europe-Tiers Monde and World Federation of Democratic Youth, non-governmental organizations in general consultative status, and Nord-Sud XXI, a non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. * 2 0 0 2 0 1 0 3 0 1 *

ENG

1. We wish to congratulate the international community for convening the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR). We are pleased to note that the Conference had been a success in achieving one of its main objective by setting a political and moral framework to reactivate the world efforts to combat racism, racial discrimination, xenophobia and related intolerance anywhere they exist. We believe that the World Conference represents a turning point in the history of mankind and an important occasion in which a number of questions that underlay the progress of contemporary society were extensively discussed for the first time in an international gathering of this high profile. The Conference has also provided an opportunity for the most disadvantaged victims of racism and racial discrimination to raise their concerns and assert their human dignity. We salute the tireless efforts of all those who have worked so hard to ensure the success of this important Conference.

2. The conclusion of the WCAR signifies the beginning of ardent work to materialize its outcomes and objectives. A sustained and resourceful follow-up strategy is indispensable to implement the recommendations contained in this Declaration and Programme of Action. This is a tremendous task that requires the full involvement of all concerned stakeholders including national governments, international and regional organizations, NGOs and civil society groups in close partnership and collaboration. As racism and racial discrimination enjoy the notorious distinction of adaptability with the changing circumstances through time and geography there is a need for a shift in the methods used to address them from theoretical discussion to more practical response at all levels.

3. Determination and political will in the part of governments in both the developed and developing countries to do a lethal blow to racism and racial discrimination in all their forms and manifestation are crucial prerequisites to implement the provisions of the Durban Declaration and Programme of Action. The Commission on Human Rights has a particularly important role to play in this process especially in monitoring and scrutinizing follow-up measures undertaken by governments and other social actors to implement the commitment they made in Durban. In doing so we should always keep in mind that without effectively dealing with its past which is often at the root of the ongoing conflicts and injustices, the world community is in no position to build a future free from the ills of racism, racial discrimination, xenophobia and related intolerance.

4. In contribution to the preparation of the World Conference, North-South XXI organized a three-day Seminar held in Dakar (Senegal) during the period 26th - 28th June 2001. The Seminar which was entitled the Gorée Initiative has brought together a number of intellectuals, politicians and human rights activists from Africa and other parts of the world including women and youth associations. The Gorée Initiative was organized as a joint NGO activity in cooperation with the Inter-African Union for Human Rights *(UIDH)*, and the *Rencontre Africaine pour la Defense des Droits de l'Homme (RADDHO)*. It has addressed the historical context within which the Slave Trade in particular the trans-Atlantic Slave Trade has devastated the African continent, the legacy left behind by this horrendous crime against humanity on the African continent and its peoples and suggested practical measures to help mitigate its long running effects.

5. A substantial step forward was the Conference's acknowledgment of the Slave Trade in particular the trans-Atlantic Slave Trade as a crime against humanity and that an apology is due to the African people for this human tragedy. The trans-Atlantic Slave Trade needs to be singled out as the most heinous crime against humanity in the history of mankind committed against a group of people by virtue of their colour or racial origin. It has played a notorious role in entrenching and

consolidating racism and racial discrimination against African people because of its long duration, large scope, racist nature and because of its economic and commercial dimensions as well as its legislative structure and organization. The impunity that surrounds the denial and non-recognition of responsibility for this human tragedy has substantially tormented the Africa continent and people of African descent in the Diaspora for many centuries. The outcomes of the World Conference should be translated in away that put an end to the victimization of African people as the first step to reconciling the human family.

6. We welcome the historical resolution adopted by the Sub-commission on the Promotion and Protection of Human Rights at its 53rd session {E/CN.4/SUB.2/RES/2001/1 dated 6th August 2001} by which the Sub-commission considered that " ... it is not possible to combat racism and racial discrimination, struggle against impunity or denounce the human rights violations which persist in the world without taking account of the deep wounds of the past." It has also considered " ... that the historic responsibility of the relevant powers towards the peoples whom they ... reduce to slavery should be the subject of solemn and formal recognition and reparation" and that " ... such recognition and reparation will constitute the beginning of a process that will foster the institution of an indispensable dialogue between peoples whom history has put in conflict for the achievement of a world of understanding, tolerance and peace." We strongly call upon the Commission on Human Rights to take immediate measures to initiate a process of reflection in a concerted fashion, on the appropriate procedure for guaranteeing the implementation of the Sub-commission's resolution.

7. However, we were disappointed to note that the Conference fell short of solemnly acknowledging the Slave Trade as a monstrous evil to which atonement and reparations of the damage done are long overdue. The just African demand for reparations should not be considered as a mere call for sanctions against the culprit nations or an appeal for handouts but rather it should be looked at as a repayment of the tremendous debt, which the Western world owes to Africa and a commitment to solve the acute problems of underdevelopment that the continent entailed as a result of the pillage of its human and material resources. The damage done to Africa by slavery, the trans-Atlantic Slave Trade and colonialism is irreparable yet the provision of reparations is a measure of protection for the future generations and a deterrent to ensure that such barbaric crimes will never be committed against the continent again. It is regrettable that the Conference has neglected calls by numerous NGOs and government delegations that practical measures such as the total and unconditional cancellation of Africa's external debts should be the first step in the right direction.

8. We share the Conference assertion that underdevelopment, poverty and its economic and social attributes were closely associated with racism, racial discrimination, xenophobia and related intolerance, and contribute to the persistence of racist attitudes and practices, which in turn generate more underdevelopment and poverty in a vicious circle. Globalization constitutes a powerful and dynamic force, which should be harnessed/utilized for the benefit, development and prosperity of all countries, without exclusion and that developing countries face special difficulties in responding to this central challenge. Its negative effects could aggravate, *inter alia*, poverty, underdevelopment, social exclusion, cultural homogenization and economic disparities which more often than not occur along racial lines and affected certain disadvantaged groups within and between societies.

9. We welcome the Conference's expressed determination to prevent and mitigate the negative effects of globalization and maximize its benefits through the strengthening of and enhancement of international cooperation to increase equality of opportunity for trade, economic growth and sustainable development, global communication through the use of new technologies and increased intercultural diversity. We support the Conference's recognition of the efforts of developing countries, in particular, the commitment and determination of the African leaders to seriously address the challenges they face through initiatives such as the New African Initiative - currently known as the New Partnership for African Development - and other innovative mechanism such as the World Solidarity Fund for the Eradication of Poverty. Also noteworthy was the commitment of the world community to integrate developing countries into the global economy and to resist their marginalization. Only through broad efforts to create a shared future based upon our common humanity and all its diversity, can globalization be made fully inclusive and equitable.

10. However, careful evaluation of the proposed measures will only conclude that they were not meant to transcend the existing framework for development aid policies under the shrinking resources and their reorientation in favour countries of economies in transition to the disadvantage of poor nations. It is regrettable that the proposed measures do not take into account the fact that the current international economic regime was built on a biased and discriminatory order that favours the expropriation and exploitation of resources of the poor underdeveloped countries to the benefit of rich nations thus consolidating and entrenching racism and racial discrimination. The Conference also fell short of setting a timetable for action to be taken by the world community in order to fully implement the proposed measures.